

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

<b>BETTY M. BUSH,</b>	)	
<b>Plaintiff</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 1:07cv00055</b>
	)	
	)	<b><u>OPINION</u></b>
<b>MICHAEL J. ASTRUE,</b>	)	
<b>Commissioner of Social Security,</b>	)	<b>By: PAMELA MEADE SARGENT</b>
<b>Defendant</b>	)	<b>United States Magistrate Judge</b>

In this social security action, I am asked to rule on a motion for an attorney's fee, (Docket Item No. 23) ("the Motion"). Based on the reasoning set out below, the Motion will be denied without prejudice.

Betty M. Bush filed this action challenging the final decision of the Commissioner of Social Security, ("Commissioner"), denying her claim for a period of disability and disability insurance benefits, ("DIB"), under the Social Security Act, as amended, ("Act"), 42 U.S.C.A. § 423. (West 2003 & Supp. 2008). Jurisdiction of this court exists pursuant to 42 U.S.C. § 405(g). The Commissioner answered the suit, filing the administrative record. Thereafter, the court, by order entered April 11, 2008, vacated the Commissioner's decision denying benefits and remanded the case to the Commissioner for further development of the record. (Docket Item No. 22.) Bush was later awarded benefits by the Social Security Administration. Counsel for Bush has filed a petition seeking approval of a fee of \$ 3,900.00 for representing Bush in this court. However, Bush's counsel has not provided the court with the required

*sworn* itemized statement of his time expended pursuing her claim in this court. Therefore, I find that the award of an attorney's fee on this record is inappropriate at this time. The Motion will be denied without prejudice to plaintiff's counsel filing another properly supported motion. An appropriate order will be entered.

DATED: October 17, 2008.

/s/ *Pamela Meade Sargent*  
UNITED STATES MAGISTRATE JUDGE